REMARKS

This Response is submitted in reply to the Non-Final Office Action dated December 1, 2009. Claims 20 and 23 to 38 are currently pending in this application. Claims 36 to 38 were previously withdrawn. Claim 20 is in independent form. Claim 20 has been amended by this Response. Support for this amendment can be found, for example, at paragraph [0007]. Favorable reconsideration is respectfully requested. Enclosed is a One-Month Extension of Time to reply to the Office Action. Please charge Deposit Account No. 02-1818 for all payments due in connection with this Response.

The Office Action rejected Claims 20, 23 to 27, 31, 32 and 35 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,606,722 to Haimi-Cohen ("Haimi-Cohen") in view of U.S. Patent No. 5,142,537 to Kutner et al. ("Kutner"). Applicant respectfully disagrees with, and traverses, such rejections. Also, the Office Action additionally rejected Claims 20, 23 to 27, 31, 32 and 35 under 35 U.S.C. 103(a) as being unpatentable over Haimi-Cohen in view of U.S. Patent No. 4,189,779 to Brautingham ("Brautingham"). Applicant respectfully disagrees with, and traverses, such rejections.

Initially, Applicant notes that the Office Action has analyzed an old version of independent claim 20, which was amended in the Response dated November 10, 2008. Applicant respectfully requests that the Examiner analyze the current version of the claims in determining allowability of the claims.

Applicant notes that independent claim 20 has been amended to clarify the scope of the claim. Independent claim 20 as currently recited includes, among other elements, "disabling error concealment." The Examiner admitted that Haimi-Cohen does not teach disabling an error concealment. Office Action, page 5. More specifically, the Examiner admits that Haimi-Cohen teaches that error concealment applied to any Baudot-encoded text is ignored with a bypass mechanism. Office Action, page 5. In other words, Haimi-Cohen teaches that error concealment is applied to Baudot-encoded text. Accordingly, as disclosed in Haimi-Cohen, error concealment is not disabled when error concealment is applied. Applying error concealment and then ignoring the error concealment is different than disabling error concealment. Therefore, Haimi-Cohen fails to disclose, teach, or suggest "disabling error concealment" as presently recited in independent claim 20.

Kutner also fails to disclose "disabling error concealment" as presently recited in independent claim 20. Kutner discloses a video signal processing circuit which allows for an error concealment method selection technique. Methods of error concealment disclosed by Kutner include interpolation in the H direction, V direction, D_+ direction, and D_- direction, and replacement with a previous frame and a near-by sample data. Kutner, col. 1, line 55 to col. 2, line 6. Kutner teaches that in certain situations, different types of error concealment are desirable (e.g., for a high error rate versus a low error rate). Kutner, col. 2, lines 7 to 32. Using various types of error concealment allows for the best possible error concealment method to be used for the current error situation. Kutner, col. 1, lines 4 to 21. An error concealment method selector 58 selects the best type of interpolating or substituting process or a default replacement. Kutner, col. 35, lines 37 to 48. As asserted by the Examiner Kutner "teaches used of disabling error concealment when error concealment is not operationally function (col. 44, lines 55-57 in Kutner)." Office Action, page 5. However, Kutner discloses switching from one error concealment method to another error concealment method. Kutner, Abstract, col. col. 35, lines 37 to 48, col. 44, lines 55 to 57. Switching from one mode of error concealment to another mode of error concealment is not disabling error concealment because, as in Haimi-Cohen, error concealment is still being applied. In Kutner, error concealment is not being disabled, but rather, the method of error concealment is being switched by the error concealment method selector 58. Accordingly, Kutner fails to disclose, teach, or suggest "disabling error concealment" as recited in independent claim 20.

Brautingham, like Haimi-Cohen and Kutner, fails to disclose disabling error concealment. The Examiner cites the following portion of Brautingham to remedy the admitted deficiencies of Haimi-Cohen:

> The interpolator also preferably includes means for disabling the interpolation in resonse to charges from voiced to unvoiced speech and vice versa, for instance.

Nothing in this portion, or any other portion of Brautingham teaches "error concealment" let alone "disabling error concealment." The interpolator of Brautingham reduces the data rate required by a speech synthesis circuit by interpolating data. In other words, Brautingham teaches the insertion of voice frames with or without errors occurring. This is not "error concealment."

Error concealment is the replacement of a voice frame (possibly interpolated) when an error occurs. Therefore, Brautingham fails to disclose, teach, or suggest "disabling error concealment" as recited in independent claim 20.

Regarding the rejection over Haimi-Cohen in view of Brautingham, the Office Action provides a Response to Arguments section at pages 2 to 3 with respect to the Haimi-Cohen and Brautingham references. Specifically, in response to the Applicant's explanation provided in the Response to Final Office Action dated October 2, 2009, the Office Action responds that:

> That is incorrect. Haimi-Cohen teaches that error concealment operations are not valid for Baudot-encoded text and that error concealment operations/data is ignored for Baudot-encoded text. Brantingham teaches that when operations, i.e., interpolation operations, are not valid for a particular type of data that the operations are disabled. It is blatantly obvious to combine Brantingham with Haimi-Cohen to avoid operations that are not valid for the Baudot-encoded text in Haimi-Cohen.

Applicant respectfully disagrees with this analysis. Specifically, as discussed previously, the interpolator of Brautingham reduces the data rate required by a speech synthesis circuit by interpolating data. In other words, Brautingham teaches the insertion of voice frames with or without errors occurring. The Examiner's characterization of Brautingham does not accurately reflect the disclosure of Brautingham, which does not disclose that interpolation operations are invalid for unvoiced data. Accordingly, disabling interpolation operations does not "avoid operations that are not valid" as asserted by the Examiner. Further, Applicant respectfully submits that it would not have been obvious to one of ordinary skill in the art to modify Haimi-Cohen according to the disclosure of Brautingham to disclose, teach, or suggest disabling error concealment as presently recited in independent claim 20. Any such combination could only be the result of improper hindsight reconstruction, especially because neither Haimi-Cohen nor Brautingham discloses, teaches, or suggests disabling error concealment.

To recap the above noted points regarding both of the rejections of independent claim 20 proffered by the Examiner, Haimi-Cohen does not disclose disabling error concealment, Kutner does not disclose disabling error concealment, and Brautingham does not disclose disabling error concealment. Therefore, none of Haimi-Cohen, Kutner, nor Brautingham disclose disabling

error concealment. Accordingly, combining the disclosures of Haimi-Cohen, Kutner, and/or Brautingham does not disclose "disabling error concealment" as recited in independent claim 20.

Further, Applicant respectfully submits that a person of ordinary skill in the art would not modify the disclosure of Haimi-Cohen according to the disclosure of Kutner or Brautingham as asserted by the Examiner. As discussed above, the Examiner's rejection and response to Applicant's prior argument is based on at least one faulty premise, and the conclusion that it "blatantly obvious" is therefore incorrect. Further, Applicant respectfully submits that even if combined, none of Haimi-Cohen, Kutner, and Brautingham, nor the system resulting from a combination of Haimi-Cohen, Kutner, and/or Brautingham disclose, teach, or suggest "disabling error concealment" as presently recited in independent claim 20.

For at least these reasons, it is respectfully submitted that independent Claim 20 is patentably distinguished over Haimi-Cohen, Kutner, and/or Brautingham and in condition for allowance. All other pending claim depend either directly or indirectly from independent Claim 20 and are also allowable for the reasons given with respect to Claim 20 and because of the additional features recited in these claims.

The Office Action rejected Claims 28 to 30, 33 and 34 under 35 U.S.C. 103(a) as being unpatentable over Haimi-Cohen in view of Kutner and further in view of U.S. Patent No. 6,029,264 to Kobayashi et al. ("Kobayashi"). Applicant respectfully disagrees with such rejections. Applicant respectfully submits that the patentability of independent claim 20 renders this rejection moot.

The Office Action rejected Claims 28 to 30, 33 and 34 under 35 U.S.C. 103(a) as being unpatentable over Haimi-Cohen in view of Brautingham and further in view of Kobayashi. Applicant respectfully disagrees with such rejections. Applicant respectfully submits that the patentability of independent claim 20 renders this rejection moot.

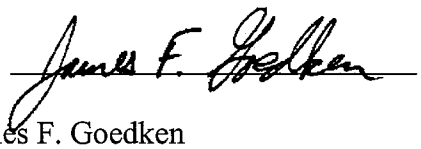
Accordingly, Applicant respectfully submits that all presently pending claims are patentably distinguished over the cited prior art.

An earnest endeavor has been made to place this application in condition for formal allowance, and such action is courteously solicited. If the Examiner has any questions regarding this Response, Applicant respectfully requests that the Examiner contact the undersigned.

The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing.

Respectfully submitted,

K&L GATES LLP

BY 

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Dated: April 1, 2010